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APPELLANT PRO SE:

**AKHENATON EL-SHABAZZ**  
Carlisle, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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AKHENATON EL-SHABAZZ,	)	
	)	
Appellant,	)	
	)	
vs.	)	No. 77A05-0806-CV-380
	)	
ALAN FINNAN,	)	
	)	
Appellee.	)	

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APPEAL FROM THE SULLIVAN SUPERIOR COURT  
The Honorable Thomas E. Johnson, Judge  
Cause No. 77D01-0806-MI-204

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**October 21, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## **Case Summary**

Akhenaton El-Shabazz (“El-Shabazz”) appeals the Sullivan Superior Court’s dismissal of his Verified Petition for State Writ of Habeas Corpus (“Petition”). We reverse and remand.

## **Issue**

El-Shabazz raises one issue on appeal, which we restate as whether the Sullivan Superior Court should have transferred this cause to the Howard Superior Court.

## **Facts and Procedural History**

El-Shabazz was convicted and sentenced in the Howard Superior Court. Six years later and incarcerated in Sullivan County, El-Shabazz filed his Petition with the Sullivan Superior Court. The Sullivan Superior Court dismissed the Petition.

El-Shabazz now appeals, pro se.<sup>1</sup>

## **Discussion and Decision**

El-Shabazz argues that the Sullivan Superior Court erred in dismissing his Petition. While he filed a Verified Petition for State Writ of Habeas Corpus, Indiana Post-Conviction Rule 1(1)(c) requires this matter to be heard by the sentencing court, here the Howard Superior Court.

This Rule does not suspend the writ of habeas corpus, but if a petitioner applies for a writ of habeas corpus, in the court having jurisdiction of his person, attacking the validity of his conviction or sentence, that court shall under this Rule transfer the cause to the court where the petitioner was convicted or sentenced, and the latter court shall treat it as a petition for relief under this Rule.

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<sup>1</sup> Because this case was dismissed as frivolous, no respondent appeared below. The Office of the Attorney General filed a Notice of Non-Involvement of the Appellee and the Indiana Attorney General.

Ind. Post-Conviction Rule 1(1)(c).

The substance of El-Shabazz's argument is that the Howard Superior Court was biased and that its bias deprived him of his Due Process right to a fair trial. As this argument attacks the validity of his conviction, the cause should have been transferred to the Howard Superior Court. Id.; see also Mills v. State, 840 N.E.2d 354, 357 n.1 (Ind. Ct. App. 2006).

Accordingly, we remand to the Sullivan Superior Court with instructions to transfer this matter to the Howard Superior Court.

Reversed and remanded.

RILEY, J., and BRADFORD, J., concur.